



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 16, 2004

Ms. Lydia L. Perry  
Law Offices of Robert E. Luna, P.C.  
4411 North Central Expressway  
Dallas, Texas 75205

OR2004-5909

Dear Ms. Perry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 205628.

The Coppell Independent School District (the "district"), which you represent, received a request for documentation to establish the identity of each individual who traveled to Europe with the Coppell High School ("CHS") Band and Choir. The requestor specified that his request was to include all past and present district employees, administrators, school board members, and "all other Europe Travelers." The requestor also specified that his request specifically "exclude[d] CHS Band members, Band chaperones, Band Boosters . . . CHS Choir members, Choir chaperones, Choir Boosters . . . CHS Band Director Scott Mason, Mason's staff, and Middle School Band Directors . . . CHS Choir Director Jolene Webster, Webster's staff, and Middle School Choir Directors." Correspondence from the requestor indicates the district released information responsive to that request. The requestor has now submitted a request for the following information: "all information for the CHS Band entourage \_ EXCEPT \_ please redact the names of CHS Band students only . . . CHS Choir entourage rosters for the entire and complete entourage \_ EXCEPT \_ please redact the names of CHS Choir students only." You claim that portions of the requested information are excepted from disclosure under section 552.114 of the Government Code and pursuant to the Family Educational Rights and Privacy Act of 1974 ("FERPA"), section 1232g of title 20 of the United States Code. We have considered your arguments and reviewed the submitted information. We have also considered comments submitted to this office by the requestor. *See Gov't Code § 552.304 (providing for submission of public comments).*

Initially, we note that most of the information you seek to withhold in the present request is specifically excluded by the precise language of the request. You argue that the submitted student and parent names are excepted from disclosure under section 552.114 and pursuant to FERPA. However, the requestor has excluded the names of band and choir students. Accordingly, any names of band and choir students within the submitted documents are not responsive to the present request and we do not address the availability of such names to the requestor.

Accordingly, we turn now to your arguments for the names of parents. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information protected by other statutes. You state that some responsive information the district intends to release contains information identifying parents of district students that is confidential pursuant to FERPA. FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information, other than directory information, contained in a student's education records to anyone but certain enumerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1); *see also* 34 C.F.R. § 99.3 (defining personally identifiable information). Section 552.026 of the Government Code incorporates FERPA into chapter 552 of the Government Code. *See* Open Records Decision No. 634 at 6-8 (1995). Section 552.026 provides as follows:

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Gov't Code § 552.026. "Education records" under FERPA are those records that contain information directly related to a student and that are maintained by an educational agency or institution or by a person acting for such agency or institution. *See* 20 U.S.C. § 1232g(a)(4)(A).

Section 552.114(a) of the Government Code excepts from disclosure "information in a student record at an educational institution funded wholly or partly by state revenue." This office generally has treated "student record" information under section 552.114(a) as the equivalent of "education record" information that is protected by FERPA. *See* Open Records Decision No. 634 at 5 (1995). FERPA protects information to the extent "reasonable and necessary to avoid personally identifying a particular student," or "one or both parents of such a student." *See* Open Records Decision Nos. 332 (1982), 206 (1978).

In Open Records Decision No. 634 (1995), this office concluded that: (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 of

the Government Code without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 of the Government Code as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. *See* Open Records Decision No. 634 at 6-8 (1995). In this instance, as you have submitted information that you contend is confidential under FERPA, we address the applicability of FERPA to the information.

Upon review, we agree that the submitted documents constitute education records that contain information identifying particular district students and parents. Thus, we agree that information in the submitted documents that personally identifies parents of district students is confidential under FERPA. Accordingly, you must withhold the names of parents pursuant to FERPA. All remaining responsive information must be released.

In summary, we conclude that any names of band and choir students within the submitted documents are not responsive to the present request. The district must withhold the names of parents of district students pursuant to FERPA. All remaining responsive information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor

should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Sarah I. Swanson  
Assistant Attorney General  
Open Records Division

SIS/seg

Ref: ID# 205628

Enc. Submitted documents

c: Mr. Arthur Kwast  
P.O. Box 1397  
Coppell, Texas 75019-1397  
(w/o enclosures)